

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION

EDWARD WERNECKE, <i>et al</i> ,	§	
	§	
Plaintiffs,	§	
VS.	§	CIVIL ACTION NO. C-07-238
	§	
TEXAS DEPARTMENT OF FAMILY	§	
AND PROTECTIVE SERVICES, <i>et al</i> ,	§	
	§	
Defendants.	§	

**MEMORANDUM OPINION AND ORDER GRANTING DEFENDANT NUECES
COUNTY'S MOTION TO COMPEL PRODUCTION**

Pending is Nueces County's Motion to Compel Production (D.E. 37), which was referred a United States Magistrate Judge by the District Court. A hearing was held on April 15, 2008.

Movant Nueces County seeks an order compelling plaintiffs to produce for inspection and copying selected documents and materials (hereafter "discovery materials") (D.E. 37). Plaintiffs have agreed to produce all discovery materials responsive to the requests for production except for privileged documents. The parties dispute only the location for production of the discovery materials. Movant requests production at counsel's office in Corpus Christi, Texas, and plaintiffs are willing to make the discovery materials available only at plaintiffs' counsel's office in Frisco, Texas.

Rule 34(b), Federal Rules of Civil Procedure, requires that a request for production "specify a reasonable time, place, and manner for the inspection." The plain language of the statute gives the discovering party the right to set the time, place and

manner for inspection, subject to a requirement that the request be reasonable. Fed. R. Civ. P. 34(b); RTC v. North Bridge Assocs., 22 F.3d 1198, 1205 (1st Cir. 1994).

Plaintiffs' counsel has cited no authority for his position that production of the discovery materials at the office of movant's attorney is unreasonable, and production of discovery in Nueces County is not inherently unreasonable. To the contrary, the acts which form the basis for this lawsuit occurred in Nueces County and the plaintiffs and most of the defendants reside in Nueces County. Many of the documents, video tapes, CDs and DVDs which are the subject of the request for production were produced in Nueces County. Corpus Christi is located in Nueces County. Frisco, Texas is located in Collin County, Texas, more than 400 miles from Corpus Christi. The documents and materials are currently located in Frisco only because that is where plaintiffs' counsel has his office and is storing the materials. The discovery materials are not voluminous--according to plaintiffs counsel the discovery materials fill two to three banker's (3-ft) boxes.

Production of discovery in Nueces County is reasonable. See King Forge, Inc. v. Millennium Forge, Inc., No. 1:07-cv-341-JDT-WTL, 2007 WL 3333254 (S.D. Indiana Nov. 8, 2007) (unpublished) ("The defendant has not even attempted to demonstrate that the plaintiff's request that the documents be produced at its counsel's office is unreasonable; rather, it has just offered an alternative location, without giving any reason for doing so.")

Accordingly, defendant Nueces County's motion to compel (D.E. 37) is GRANTED, and the discovery materials shall be made available for inspection and copying in Corpus Christi. Counsel for the parties represented in open court that they

would prefer to work out the specific time and manner of the production amongst themselves, and so no order is entered addressing these issues. The parties may contact the Clerk to request a telephone conference if necessary.

ORDERED this 16th day of April, 2008.


B. JANICE ELLINGTON
UNITED STATES MAGISTRATE JUDGE